

## NEWS FROM U.S. DISTRICT COURT

December 21, 2011

### PROTECTED DOCUMENTS

I previously addressed motions to seal and protective orders. In this issue, I will address how to file documents and attachments containing personal identifiers or information subject to a protective order (collectively referred to as “protected documents”) in civil cases.




#### 1. FILING SEALED DOCUMENTS

##### A. Documents subject to the E-Government Act of 2002

Civil Local Rule 5.2 requires parties to refrain from including or to partially redact where inclusion is necessary: (1) social security numbers and taxpayer identification numbers; (2) names of individuals known to be minors; (3) dates of birth; and (4) financial account numbers. In cases where parties file a redacted document, they may also file an unredacted copy under seal by delivering the document to the Clerk’s Office with a special cover sheet. LR 5.2(B). An order is **not** required.

Procedure:

- First, file the redacted document using the appropriate event, *e.g.*, Memorandum in Support of Motion. Do **NOT** use the Redacted Document event.
- Next, deliver the protected document to be filed under seal to the Clerk’s Office with a cover sheet stating: “This document to be filed under seal pursuant to the E-Government Act.” When received, the Clerk’s Office will file the document using the “Sealed Document” event and will link it to the redacted document. The Clerk’s Office will also make a “Redacted Document:” notation in the docket text for the redacted document. The final docket entries will look similar to the following:

 <a href="#">25</a>	MOTION to Compel by Paige Weber. (Attorney, John Q.) (Entered: 11/04/2011)
 <a href="#">26</a>	REDACTED Document: MEMORANDUM in Support re <a href="#">25</a> MOTION to Compel filed by Paige Weber. (Attorney, John Q.) Modified on 11/7/2011 (SST). (Entered: 11/07/2011)
 <a href="#">27</a>	SEALED Document re: <a href="#">26</a> Memorandum in Support of Motion. (SST) (Entered: 11/07/2011)

##### B. Documents subject to a Protective Order

When the Court has entered a Protective Order, there is no need to file a redacted document.

Procedure:

- Deliver the protected document to be filed under seal to the Clerk's Office with a cover sheet stating: "This document to be filed under seal pursuant to the Protection Order issued on [insert date]." When received, the Clerk's Office will file the document using the "Sealed Document" event.

## 2. FILING SEALED ATTACHMENTS

Attorneys have been asking for direction on how to file attachments containing personal identifiers or information subject to a Protection Order. In both instances a "placeholder" should be electronically filed and the protected documents should be delivered to the Clerk's Office by other means for filing.

### A. Attachments subject to the E-Government Act of 2002

If you have attachments that contain personal identifiers, they must be partially redacted. Civ. LR 5.2. In addition to filing the redacted attachment, you may elect to file an unredacted (sealed) attachment. An order is **not** required.

Procedure:

- First, file the main document.
- Second, file the redacted attachment. The description of the redacted document should indicate that it is redacted, *e.g.*, "REDACTED Medical records."
- Third, file a placeholder attachment. The placeholder attachment should contain the following text: "This document will be delivered to the Clerk's Office to be filed under seal pursuant to the E-Government Act of 2002." The description of the placeholder should be identical to the description of the redacted document except that it should **not** include the word "redacted," *e.g.*, "Medical records."
- Finally, deliver the protected document to be filed under seal to the Clerk's Office with a cover sheet stating: "This document to be filed under seal pursuant to the E-Government Act." When received, the Clerk's Office will replace the previously filed placeholder attachment with the sealed document. The final docket entry will look similar to the following:

<u>22</u>	MEMORANDUM in Support re <u>21</u> MOTION for Summary Judgment filed by Victor Sweetwood. (Attachments: # <u>1</u> REDACTED Medical Records, # <u>2</u> SEALED Medical Records)(Attorney, John Q.) (Attachment 2 replaced on 11/3/2011) (SST). (Entered: 11/03/2011)
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## **B. Attachments subject to a Protective Order**

When the Court has entered a Protective Order, there is no need to file a redacted document.

Procedure:

- First, file the main document.
- Second, file a placeholder attachment. The placeholder should contain the following text: “This document will be delivered to the Clerk’s Office to be filed under seal pursuant to the Protection Order issued on [insert date].” Be sure to provide a description of document.
- Next, deliver the protected document to be filed under seal to the Clerk’s Office with a cover sheet stating: “This document to be filed under seal pursuant to the Protection Order issued on [insert date].” When received, the Clerk’s Office will replace the previously filed placeholder attachment with the sealed document. The final docket entry will look similar to the following:

<u>23</u>	MEMORANDUM in Opposition re <u>12</u> MOTION for Summary Judgment filed by Brooke Fullerton. (Attachments: # <u>1</u> SEALED Employment Contract) (Attorney, Jane Q.) (Attachment 1 replaced on 11/3/2011) (SST). (Entered: 11/03/2011)
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